

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1584 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
1 to 5 - No

MADHUSUDAN BHANUPRASAD PANDYA

Versus

STATE OF GUJARAT

Appearance:

MR RS PANDYA for Petitioner

MR BY MANKAD, AGP for Respondent Nos. 1 & 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 03/07/98

ORAL JUDGEMENT

Rule. In the facts and circumstances of the case, with consent of the learned counsel for the parties the matter is taken up for final disposal today.

2. In this petition under Article 226 of the Constitution the petitioner representing M/s. General Cement Pipes Co. engaged in the business of manufacturing cement pipes on land bearing Survey No. 288/4, admeasuring 5160 sq.mtrs. in village Chandlodiya, Ahmedabad has prayed for appropriate writ to direct the respondents to consider the petitioner's application dated 19.7.1990 at Annexure "D" to the petition for

exemption from the applicability of the provisions of Chapter III of the Urban Land (Ceiling & Regulations) Act, 1976 (hereinafter referred to as "the Act") under Section 20 of the Act.

3. According to the petitioner, the petitioner is engaged in the business of manufacturing cement pipes and is carrying on its manufacturing activities on the aforesaid land. The petitioner has constructed godowns, labour rooms, material rooms, office premises, two sheds and two other cabins and required open land for storing the materials and finished products. The petitioner had, therefore, applied for exemption under Section 20 of the Act on the aforesaid grounds. That application dated 19.7.1990 is produced at Annexure "D" to the petition. As averred in the petition, the petitioner was called for hearing and the hearing was fixed on 24.2.1998. However on account of the elections to Parliamentary and Legislative Assembly, the matter was not taken up for hearing and the petitioner was requested to contact the concerned office after 10.3.1998. On the one hand the petitioner's application for exemption under Section 20 of the Act is not decided, on the other hand the authorities were making an attempt to take over possession of a part of the petitioner's land on the ground that the same was excess vacant land. The petitioner has, therefore, been constrained to approach this Court.

4. At the hearing of this petition, Mr B.Y. Mankad, learned AGP does not dispute the fact that the petitioner's application (Annexure "D") for exemption is pending since 19.7.1990 and the same is not yet decided. In this view of the matter, the interests of justice require that respondent No. 1 be directed to decide the pending application dated 19.7.1990 (Annexure "D") for exemption under Section 20 of the Act as expeditiously as possible and in any case within three months from the date of receipt of a certified copy of this order.

5. The petition is allowed. Respondent No. 1-State of Gujarat is hereby directed to consider and decide the petitioner's application dated 19.7.1990 for exemption under Section 20 of the ULC Act (Annexure "D") as expeditiously as possible and within three months from the date of receipt of a certified copy of this order. It goes without saying that before taking any final decision in this matter, the authority shall give an opportunity of hearing to the petitioner.

Until the said application is decided, the

respondents shall not take any steps for recovering possession of any portion of the aforesaid land in question.

6. Rule is made absolute to the above extent. In the facts and circumstances of the case especially in view of the fact that the petitioner's application for exemption under section 20 of the Act has remained pending for more than seven years, respondent No.1 is directed to pay the petitioner costs of this petition which are quantified at Rs. 1,000/- (Rupees One thousand only) and which shall be paid to the petitioner within one month from the date of receipt of a certified copy of this order.

Sd/-

July 3, 1998 (M.S. Shah, J.)